

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA, §
§
Plaintiff, §
§
v. § CASE NO. 7:20-CV-144
§
0.307 ACRES OF LAND, MORE OR LESS, §
SITUATE IN HIDALGO §
COUNTY, STATE OF TEXAS; AND §
BRIAN MCGEE SHIVERS, ET AL., §
§
§
Defendants. §

COMPLAINT IN CONDEMNATION

1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security, for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule "A."

4. The public purpose for which said interest in property is taken is set forth in Schedule "B."

5. The legal description and map or plat of land in which certain interests are being acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in Schedules "C" and "D."

6. The interest being acquired in the property described in Schedules "C" and "D" is set forth in Schedule "E."

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule "F."

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule "G."

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule "E" of the property described in Schedules "C" and "D" be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

By: *s/ N. Joseph Unruh*
N. JOSEPH UNRUH
Assistant United States Attorney
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Texas Bar No. 24075198
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E-mail: Neil.Unruh@usdoj.gov

SCHEDULE

A

SCHEDULE A

AUTHORITY FOR THE TAKING

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554-55, as amended and codified at 8 U.S.C. § 1103(b) & note and the Act of Congress approved February 15, 2019, as Public Law 116-6, div. A, tit. II, Section 230, 133 Stat. 13, which appropriated the funds that shall be used for the taking.

SCHEDULE

B

SCHEDULE B

PUBLIC PURPOSE

The public purpose for which said property is taken is to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

SCHEDULE

C

SCHEDULE C

LEGAL DESCRIPTION

Hidalgo County, Texas

Tract: RGV-MCS-2224

Owner: Brian McGee Shivers et al.

Acres: 0.157

BEING a 0.157 acre tract (6,841 square feet) parcel of land, more or less, being out of a part of Lots 6 and 7 of the unrecorded Riverside Subdivision A, recorded in Document No. 1924-1770087, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to John H. Shary, said 0.157 acre (6,841 square feet) parcel of land being more particularly described as follows;

BEGINNING at a found 5/8" rebar, designated "RGV-MCS-2209-2=RGV-MCS-2209-1-3=RGV-MCS-2224-1" having a coordinate value of N = 16583695.029, E = 1039758.713, for the southwest corner of the herein described proposed acquisition tract, said point being the southwest corner of said John H. Shary tract and the southeast corner of a part of said Lot 6, recorded in Document No. 2015-2660671, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to Klub Nautique, LLC, the northwest corner of a levee easement (736-H), recorded in Document No. 1942-19357, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the United States of America and the southwest corner of a levee easement (737-H), recorded in Document No. 1945-6187, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the United States of America, said point also being on the north line of a part of Lots 4 and 5 of the unrecorded Riverside Subdivision A, recorded in Document No. 2014-2569340, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to Klub Nautique, LLC, said point also being N 25°52'24" W, a distance of 6630.74 feet from United States Corps of Engineers Control Point No. H122;

THENCE: N 14°35'23" W, along the west line of said John H. Shary tract, the east line of said Klub Nautique, LLC Lot 6 tract and the west line of said levee easement (737-H) tract, a distance of 126.54 feet to a found 6" iron pipe filled with concrete designated "RGV-MCS-2203-6=RGV-MCS-2209-1= RGV-MCS-2224-2", said point being on the north line of said Klub Nautique, LLC Lot 6 tract and the south line of a part of Lot 7 of said unrecorded Riverside Subdivision A, recorded in Document No. 2985143, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to Series 2-River Property, a Series of Beneficium Series, LLC;

SCHEDULE C (continued)

LEGAL DESCRIPTION

Hidalgo County, Texas

Tract: RGV-MCS-2224

Owner: Brian McGee Shivers et al.

THENCE: N 14°14'27" W, along the west line of said John H. Shary tract, the east line of said Series 2-River Property tract and the west line of said levee easement (737-H) tract, a distance of 124.12 feet to a found 1/2" rebar with cap, designated "RGV-MCS-2203-5=RGV-MCS-2224-3" for the northwest corner of the herein described proposed acquisition tract, said point being the northwest corner of said John H. Shary tract, the northeast corner of said Series 2-River Property tract, the northwest corner of said levee easement (737-H) and the southwest corner of a levee easement (738-H), recorded in Volume 609, Page 479, Deed Records of Hidalgo County (D.R.H.C.), Texas, conveyed to the United States of America, said point also being on the south line of Lot 8 of said unrecorded Riverside Subdivision A;

THENCE: N 71°42'28" E, along the north line of said levee easement (737-H), the south line of said levee easement (738-H), the north line of said John H. Shary tract and the south line of said Lot 8, a distance of 27.17 feet to a found 1/2" rebar with cap, designated "RGV-MCS-2202-7=RGV-MCS-2203-4=RGV-MCS-2224-4" for the northeast corner of the herein described proposed acquisition tract, said point being the northeast corner of said John H. Shary tract, the southeast corner of said Lot 8, the northeast corner of said levee easement (737-H) and the southeast corner of said levee easement (738-H), said point also being on the west line of a tract of land recorded in Volume 752, Page 342, Deed Records of Hidalgo County (D.R.H.C.), Texas, conveyed to Hidalgo County Water Control and Improvement District No. 19 and on the west line of a levee easement (734-H), recorded in Document No. 1944-45877, conveyed to the United States of America;

THENCE: S 14°25'16" E, along the east line of said John H. Shary tract, the west line of said Hidalgo County Water Control and Improvement District No. 19 tract, the east line of said levee easement (737-H) tract and the west line of said levee easement (734-H) tract, a distance of 250.44 feet to the southeast corner of the herein described proposed acquisition tract, designated "RGV-MCS-2202-6= RGV-MCS-2209-1-4=RGV-MCS-2224-5", said point being the southeast corner of said John H. Shary tract, the northeast corner of said Klub Nautique, LLC Lots 4 and 5 tract, the southeast corner of said levee easement (737-H) tract and the northeast corner of said levee easement (736-H) tract;

THENCE: S 71°14'59" W, along the south line of said John H. Shary tract, the north line of said Klub Nautique, LLC Lots 4 and 5 tract, the south line of said levee easement

SCHEDULE C (continued)

LEGAL DESCRIPTION

Hidalgo County, Texas

(737-H) tract and the north line of said levee easement (736-H) tract, a distance of 27.20 feet to the POINT OF BEGINNING and containing 0.157 acres (6,841 square feet) of land, more or less

Tract: RGV-MCS-2224-1

Owner: Brian McGee Shivers et al.

Acres: 0.150

BEING a 0.150 acre tract (6,554 square feet) parcel of land, more or less, being out of a part of Lot 1 of the unrecorded Riverside Subdivision A, recorded in Document No. 1921-1320498, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to John H. Shary, said 0.150 acre (6,554 square feet) parcel of land being more particularly described as follows;

BEGINNING at a found 3" iron pipe designated "RGV-MCS-2211-1=RGV-MCS-2213-7=RGV-MCS-2224-1-1" having a coordinate value of N = 16582918.583, E = 1039938.127, for the southwest corner of the herein described proposed acquisition tract, said point being the southwest corner of said John H. Shary tract and the northwest corner of a called 2.64 acre tract, recorded in 2011-2224163, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the City of Mission and the northwest corner of a levee easement (733-H), recorded in Document No. 1942-18238, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the United States of America, said point also being the northeast corner of a called 4.781 tract of land, recorded in Document No. 1999-814019, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the Catholic Diocese of Brownsville, said point also being the southeast corner of a tract of land being part of Lot 1 of the unrecorded Riverside Subdivision A, recorded in Document No. 2013-2431931, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the Editora Hora Cero S.A. De C.V., said point being the southwest corner of a levee easement (735-H), recorded in Document No. 1945-6186, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the United States of America, said point also being N 27°36'32" W, a distance of 5856.52 feet from United States Corps of Engineers Control Point No. H122;

THENCE: N 02°19'36" E, departing the north line of said Catholic Diocese of Brownsville tract, the north line of said City of Mission, Texas tract and the north line of said levee easement (733-H), and along the east line of said Editora Hora Cero S.A. De C.V. tract, the west line of said John H. Shary tract and the west line of said levee easement (735-H), a distance of 70.40 feet to an angle point designated "RGV-MCS-2211-4=RGV-MCS-2224-1-2";

SCHEDULE C (continued)

LEGAL DESCRIPTION

Hidalgo County, Texas

THENCE: N 14°28'15" W, along the west line of said levee easement (735-H), the east line of said Editora Hora Cero S.A. De C.V. tract and the west line of said John H. Shary tract, a distance of 229.25 feet to a found 5/8" rebar designated "RGV-MCS-2207-1-5=RGV-MCS-2211-3=RGV-MCS-2224-1-3" for the northwest corner of the herein described proposed acquisition tract, said point being the northwest corner of said John H. Shary tract and the northeast corner of said Editora Hora Cero S.A. De C.V. tract, said point being on the south line of Lot 2 of the unrecorded Riverside Subdivision A, recorded in Document No. 820043, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to Johnny and Jennifer Hart, said point also being the northwest corner of said levee easement (735-H) and the southwest corner of a levee easement (736-H), recorded in Document No. 1942-19357, Official Records of Hidalgo County (O.R.H.C.), Texas, conveyed to the United States of America;

THENCE: N 71°11'27" E, along the north line of said levee easement (735-H), the south line of said levee easement (736-H), the north line of said John H. Shary tract and the south line of said Johnny and Jennifer Hart tract, a distance of 23.85 feet to the northeast corner of the herein described proposed acquisition tract, designated "RGV-MCS-2202-3=RGV-MCS-2207-1-4=RGV-MCS-2224-1-4", said point being the northeast corner of said John H. Shary tract, the southeast corner of said Johnny and Jennifer Hart tract, the northeast corner of said levee easement (735-H) and the southeast corner of said levee easement (736-H), said point also being on the west line of a tract of land recorded in Volume 752, Page 342, Deed Records of Hidalgo County (D.R.H.C.), Texas, conveyed to Hidalgo County Water Control and Improvement District No. 19 and on the west line of a levee easement (734-H), recorded in Document No. 1944-45877, conveyed to the United States of America;

THENCE: S 13°32'31" E, along the east line of said John H. Shary tract, the west line of said Hidalgo County Water Control and Improvement District No. 19 tract, the east line of said levee easement (735-H) and the west line of said levee easement (734-H), a distance of 236.32 feet to an angle point designated "RGV-MCS-2202-2=RGV-MCS-2224-1-5";

THENCE: S 02°38'31" E, along the east line of said John H. Shary tract, the west line of said Hidalgo County Water Control and Improvement District No. 19 tract, the east line

SCHEDULE C (continued)

LEGAL DESCRIPTION

Hidalgo County, Texas

of said levee easement (735-H) and the west line of said levee easement (734-H), a distance of 55.13 feet to the southeast corner of the herein described proposed acquisition tract, designated "RGV-MCS-2202-1=RGV-MCS-2224-1-6", said point being the southeast corner of said John H. Shary tract, the northeast corner of said City of Mission, Texas tract, the southeast corner of said levee easement (735-H) and the northeast corner of said levee easement (733-H);

THENCE: S 59°44'13" W, along the south line of said John H. Shary tract, the north line of said City of Mission, Texas tract, the south line of said levee easement (735-H) and the north line of said levee easement (733-H), a distance of 30.13 feet to the POINT OF BEGINNING and containing 0.150 acres (6,554 square feet) of land, more or less.

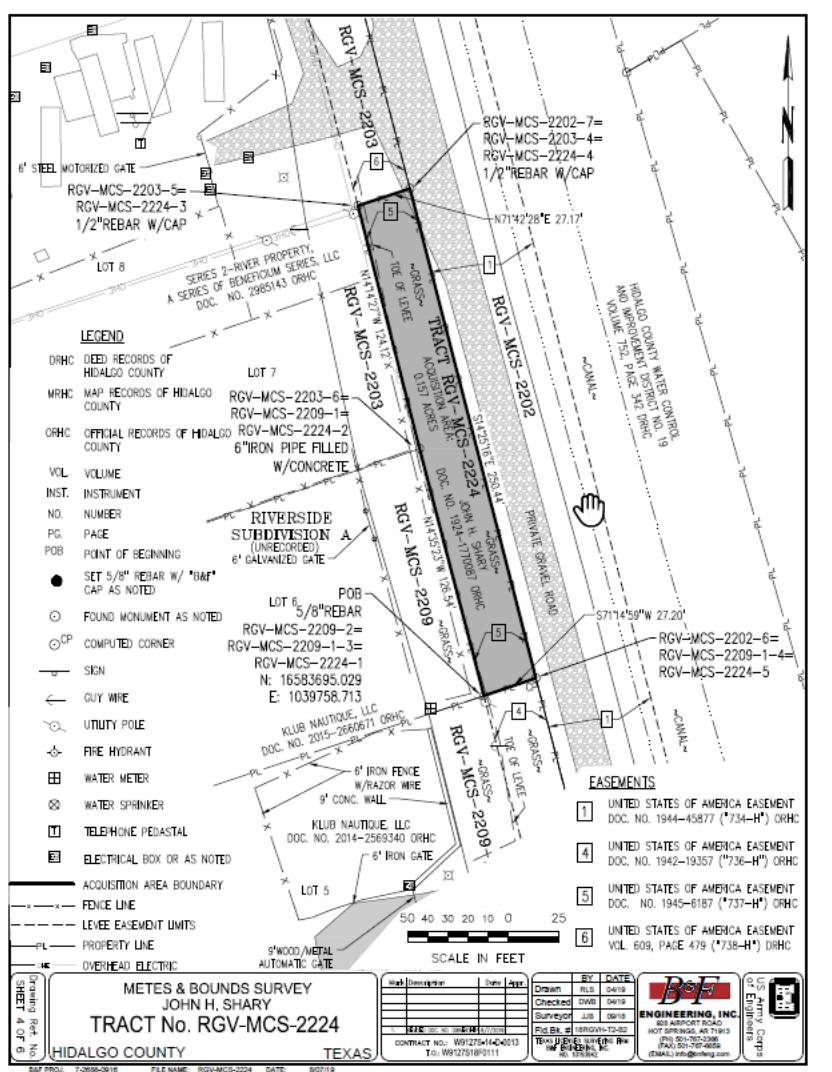
SCHEDULE

D

SCHEDULE D

MAP or PLAT

LAND TO BE CONDEMNED



Tract: RGV-MCS-2224

Owner: Brian McGee Shivers et al.

Acres: 0.157

SCHEDULE D (continued)**MAP or PLAT****LAND TO BE CONDEMNED**

DESCRIPTION	NORTHING	EASTING
RGV-MCS-2209-2=RGV-MCS-2209-1-3=	16583695.029	1039758.713
RGV-MCS-2224-1=		
RGV-MCS-2203-5=RGV-MCS-2209-1=	16583817.493	1039726.837
RGV-MCS-2224-2=		
RGV-MCS-2203-5=RGV-MCS-2224-3	16583937.795	1039696.305
RGV-MCS-2202-7=RGV-MCS-2203-1=	16583946.322	1039722.098
RGV-MCS-2202-6=RGV-MCS-2209-1-4=	16583703.772	1039784.469
RGV-MCS-2224-5=		

GENERAL SURVEYOR'S NOTES:

1. THE REARINGS, DISTANCES AND COORDINATE VALUES SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, REFERENCED TO NAD 83(2011), TX SOUTH ZONE(4205), US SURVEY FEET, USING THE CORS(2011) ADJUSTMENT. THE DISTANCES AND COORDINATES SHOWN HEREON ARE GRID VALUES AND MAY BE CONVERTED TO GROUND (SURFACE) USING THE TXDOT COUNTY PUBLISHED COMBINED SCALE FACTOR OF 1.000040000 (E.G. GRID X 1.000040000 = SURFACE).
2. A SEPARATE METES AND BOUNDS DESCRIPTION OF EQUAL DATE WAS WRITTEN IN CONJUNCTION WITH THIS SURVEY PLAT.
3. THE SQUARE FOOTAGE TOTAL REITED HEREIN IS BASED ON MATHEMATICAL CALCULATIONS AND SUBJECT TO THE RULES OF ROUNDING AND SIGNIFICANT NUMBERS.
4. FIELD SURVEY WAS COMPLETED IN NOVEMBER, 2018.
5. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
6. BAF ENGINEERING, INC. HAS PROVIDED THESE SURVEY SERVICES TO THE CORPS OF ENGINEERS AS THE PRIME CONSULTANT, THE CORPS CONTRACTING OFFICER'S REPRESENTATIVE IS STEPHEN CORLEY, RPLS (817) 886-1143.
7. LONE STAR BII UTILITY LOCATE REQUEST WAS SUBMITTED FOR THIS SURVEY ON OCTOBER 9, 2018 (TICKET NO. 1877865798). NO UNDERGROUND UTILITY MARKINGS WERE LOCATED IN THIS AREA.
8. UTILITY EASEMENTS IN THIS AREA ARE BEING RESEARCHED.

Sheet 5 of 6

Drawn Ref. No.

METES & BOUNDS SURVEY
JOHN H. SHARY
TRACT No. RGV-MCS-2224
HIDALGO COUNTY, TEXAS

Task Description	Drawn	Approved
Initial Survey	WLS	04/19
Check Survey	DWS	04/19
Surveyor	WLS	04/19
Printed By	18RGV1-T3-02	
Printed On	18RGV1-T3-02	
Printed At	18RGV1-T3-02	
Printed On Date	04/19/18	
Printed At Date	04/19/18	

B&F
ENGINEERING, INC.
HOT SPRINGS, AR 71913
(873) 270-2656
(FAX) 270-2656
(EMAIL) info@bfeng.com

Tract: RGV-MCS-2224

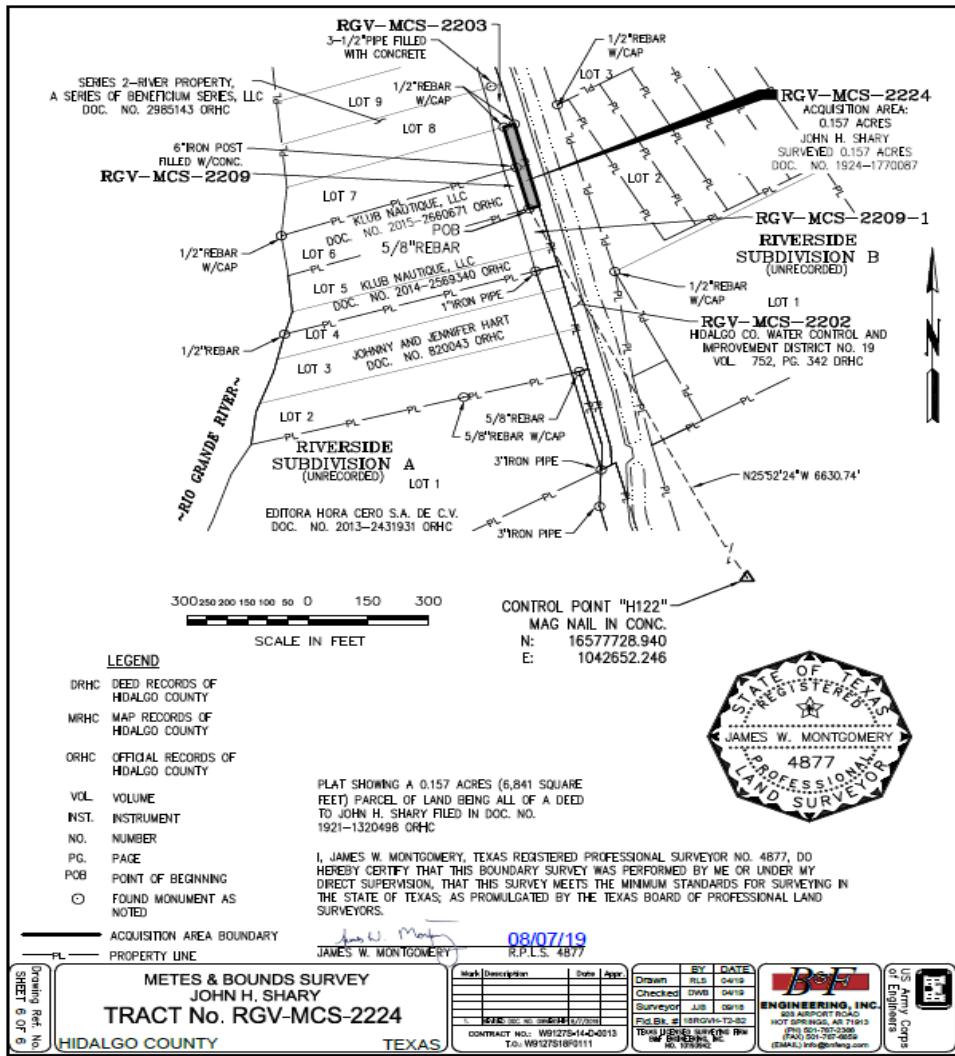
Owner: Brian McGee Shivers et al.

Acres: 0.157

SCHEDULE D (continued)

MAP or PLAT

LAND TO BE CONDEMNED



Tract: RGV-MCS-2224

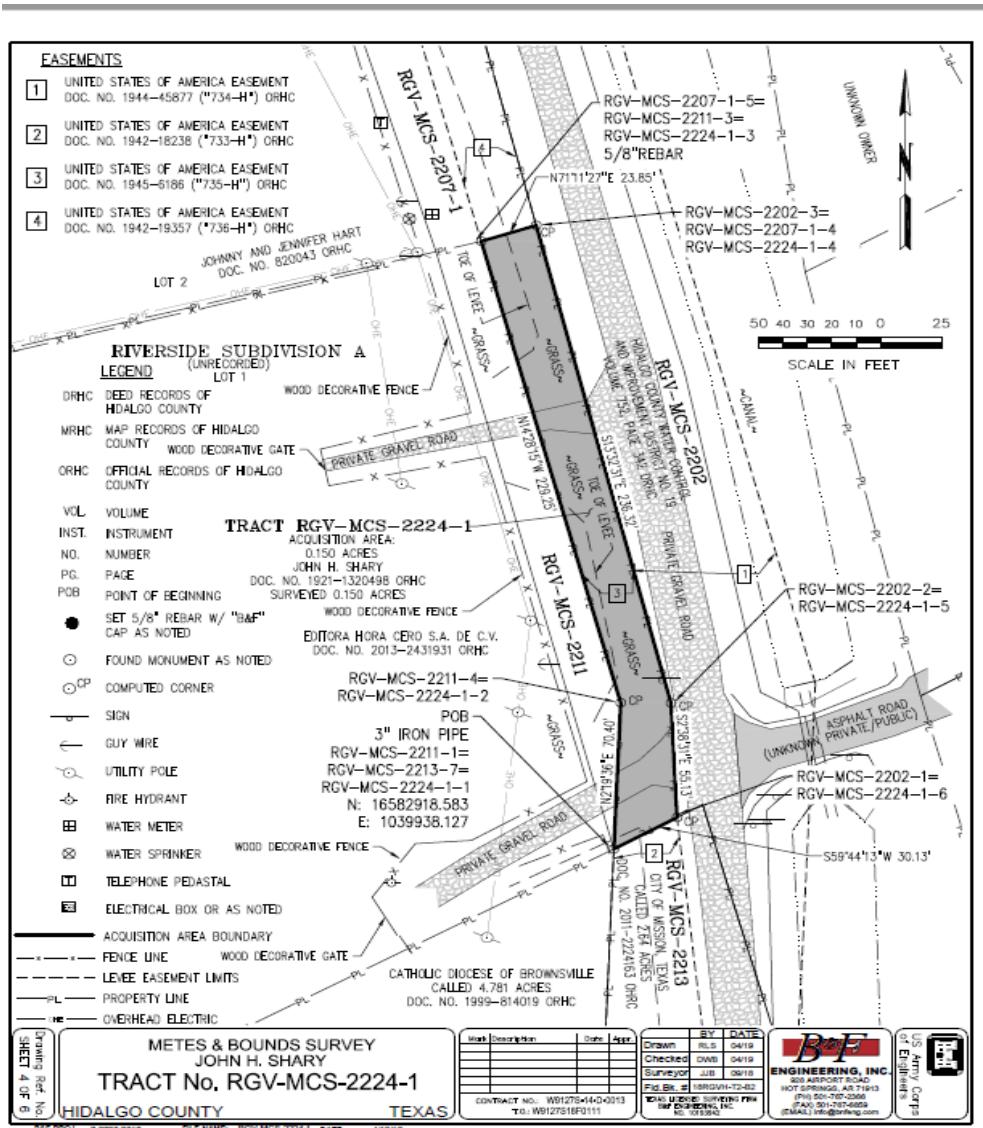
Owner: Brian McGee Shivers et al.

Acres: 0.157

SCHEDULE D (continued)

MAP or PLAT

LAND TO BE CONDEMNED



Tract: RGV-MCS-2224-1

Owner: Brian McGee Shivers et al.

Acres: 0.150

SCHEDULE D (continued)**MAP or PLAT****LAND TO BE CONDEMNED**

DESCRIPTION	NORTHING	EASTING
RGV-MCS-2211-1=RGV-MCS-2213-7=	16582918.583	1039938.127
RGV-MCS-2224-1-1		
RGV-MCS-2211-4=RGV-MCS-2224-1-2	16582988.925	1039940.985
RGV-MCS-2207-1-3=RGV-MCS-2211-3=	16583210.903	1039883.698
RGV-MCS-2224-1-3		
RGV-MCS-2202-3=RGV-MCS-2207-1-4=	16583218.592	1039906.271
RGV-MCS-2224-1-4		
RGV-MCS-2202-2=RGV-MCS-2224-1-5	16582988.839	1039961.508
RGV-MCS-2202-1=RGV-MCS-2224-1-6	16582933.767	1039964.149

GENERAL SURVEYOR'S NOTES:

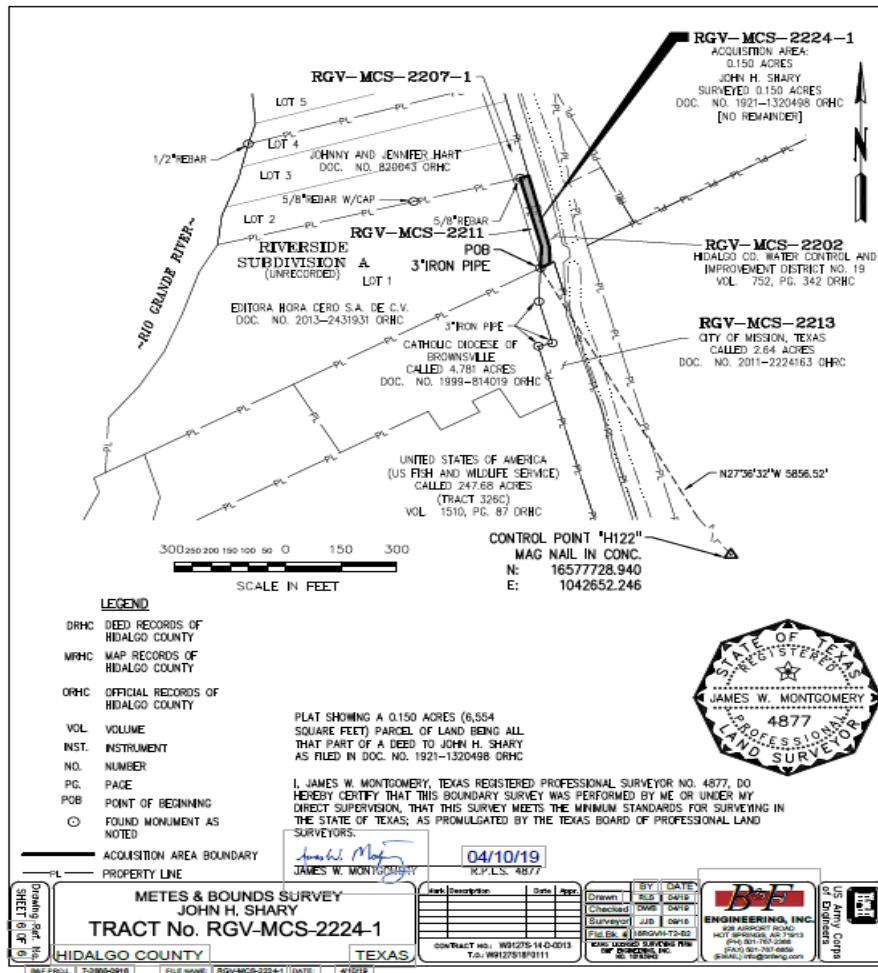
1. THE BEARINGS, DISTANCES AND COORDINATE VALUES SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, REFERENCED TO NAD 83(2011), TX SOUTH ZONE(4205), US SURVEY FEET, USING THE CORS(2011) ADJUSTMENT. THE DISTANCES AND COORDINATES SHOWN HEREON ARE GRID VALUES AND MAY BE CONVERTED TO GROUND (SURFACE) USING THE TXDOT COUNTY PUBLISHED COMBINED SCALE FACTOR OF 1.000040000 (E.G. GRID X 1.000040000 = SURFACE).
2. A SEVERAL METES AND BOUNDS DESCRIPTION OF EQUAL DATE WAS WRITTEN IN CONJUNCTION WITH THIS SURVEY PLAT.
3. THE SQUARE FOOTAGE TOTAL RECDTED HEREIN IS BASED ON MATHEMATICAL CALCULATIONS AND SUBJECT TO THE RULES OF ROUNDING AND SIGNIFICANT NUMBERS.
4. FIELD SURVEY WAS COMPLETED IN NOVEMBER, 2018.
5. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
6. BMF ENGINEERING, INC. HAS PROVIDED THESE SURVEY SERVICES TO THE CORPS OF ENGINEERS AS THE PRIME CONSULTANT. THE CORP'S CONTRACTING OFFICER'S REPRESENTATIVE IS STEPHEN CORLEY, RPLS (B17) 886-1143.
7. LONE STAR 811 UTILITY LOCATE REQUEST WAS SUBMITTED FOR THIS SURVEY ON OCTOBER 9, 2018 (TICKET NO. 1877865798). NO UNDERGROUND UTILITY MARKINGS WERE LOCATED IN THIS AREA. POSSIBLE TELEPHONE LINE IN THE VICINITY.
8. TELEPHONE EASEMENTS IN THIS AREA ARE BEING RESEARCHED.

DRAWING SHEET 5 1		METES & BOUNDS SURVEY JOHN H. SHARY TRACT No. RGV-MCS-2224-1 HIDALGO COUNTY, TEXAS			Job Description Date App'd Drawn: 8/15/2018 Checked: 8/15/2018 Surveyed: 10/9/2018 Fwd. to: MRCU-72-80 CONTRACT NO.: W91275-14-D-0013 T.O.: W91275-18-F1111		BY DATE Drawn: 8/15/2018 Checked: 8/15/2018 Surveyed: 10/9/2018 Fwd. to: MRCU-72-80 CONTRACT NO.: W91275-14-D-0013 T.O.: W91275-18-F1111	
B&F Engineering, Inc.					B&F Engineering, Inc.		B&F Engineering, Inc.	
US Army Corps of Engineers					US Army Corps of Engineers		US Army Corps of Engineers	

Tract: RGV-MCS-2224-1

Owner: Brian McGee Shivers et al.

Acres: 0.150

SCHEDULE D (continued)**MAP or PLAT****LAND TO BE CONDEMNED**

Tract: RGV-MCS-2224-1

Owner: Brian McGee Shivers et al.

Acres: 0.150

SCHEDULE

E

SCHEDULE E

ESTATE TAKEN

Hidalgo County, Texas

Tract: RGV-MCS-2224

Owner: Brian McGee Shivers, et al.,

Acres: 0.157

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to all interests in minerals and appurtenant rights for exploration, development, production and removal of said minerals;

Excepting and excluding all interests in water rights and water distribution and drainage systems, if any, provided that any surface rights arising from such water rights or systems are subordinated to the United States' construction, operation and maintenance of the border barrier.

Tract: RGV-MCS-2224-1

Owner: Brian McGee Shivers, et al.,

Acres: 0.150

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to all interests in minerals and appurtenant rights for exploration, development, production and removal of said minerals;

Excepting and excluding all interests in water rights and water distribution and drainage systems, if any, provided that any surface rights arising from such water rights or systems are subordinated to the United States' construction, operation and maintenance of the border barrier.

SCHEDULE

F

SCHEDULE F
ESTIMATE OF JUST COMPENSATION

The sum estimated for just compensation for the land being taken is TWELVE THOUSAND DOLLARS AND NO/100 (\$12,000.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto.

SCHEDULE

G

SCHEDULE G**INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. See Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
1. Brian McGee Shivers Dallas, TX 75205	Warranty Deed, Document # 1921-1320498, recorded November 23, 1921, Deed Records of Hidalgo County
2. Estate of Robert Allan Shivers, Jr. Brian McGee Shivers, Executor Dallas, TX 75205	Warranty Deed, Document # 1924-1770087, recorded September 11, 1924, Deed Records of Hidalgo County
3. Marialice S. Ferguson Austin, TX 78703	Easement Deed, Document # 1945-3534, recorded February 16, 1945, Deed Records of Hidalgo County
4. Estate of John Shary Shivers, Sr. Miller Shivers Vance, Co-Executor Chicago, IL 60614 and	Easement Deed, Document # 1945-3496, Recorded February 16, 1945, Deed Records of Hidalgo County Easement Deed, Document # 1945-6186, Recorded April 3, 1945, Deed Records of Hidalgo County
5. Dillon Ferguson, Co-Executor Austin, TX 78701	Easement Deed, Document # 1945-6187, Recorded April 3, 1945, Deed Records of Hidalgo County Probate Records of John H. Shary. Cause No. 2773, <i>Estate of John H. Shary</i> , in the County Court of Hidalgo County, Texas
	Special Warranty Deed, Document # 1951-8623, Recorded May 26, 1951, Deed Records of Hidalgo County
	Probate Records of Mary O'Brien Shary. Cause No. 5730, <i>Estate of Mary O'Brien</i>

	<p><i>Shary</i>, in the County Court at Law of Hidalgo County, Texas</p> <p>Probate Records of John Shary Shivers, Sr., Cause No. 2011-PR01858-1, in the Probate Court No. 1 of Tarrant County, Texas</p> <p>Probate Records of Robert Allan Shivers, Jr., Cause No. C-1-PB-19-000153, in the Probate Court of Travis County, Texas</p>
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 899 Administrative Procedure
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): _____

VI. CAUSE OF ACTION

Brief description of cause: _____

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): _____

JUDGE _____

DOCKET NUMBER _____

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____